

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 466

Short Title: Modify Teacher Career Status Law. (Public)

Sponsors: Senators Hartsell and Tillman.

Referred to: Education/Higher Education.

March 31, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC  
3 SCHOOL TEACHERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 115C-325 reads as rewritten:

6 "**§ 115C-325. System of employment for public school teachers.**

7 (a) Definition of Terms. – As used in this section unless the context requires otherwise:

8 ...

9 (1d) ~~"Case manager" means a person selected under G.S. 115C-325(h)(7).~~

10 ...

11 (4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

12 ...

13 (e) (3) Inadequate Performance. – In determining whether the professional  
14 performance of a career employee is adequate, consideration shall be given  
15 to regular and special evaluation reports prepared in accordance with the  
16 published policy of the employing local school administrative unit and to  
17 any published standards of performance which shall have been adopted by  
18 the board. Failure to notify a career employee of an inadequacy or deficiency  
19 in his performance shall be conclusive evidence of satisfactory performance.  
20 Inadequate performance for a teacher as defined in G.S. 115C-325(a)(6)  
21 shall mean (i) the failure to perform at a proficient level on any standard of  
22 the evaluation instrument or (ii) otherwise performing in a manner that is  
23 below standard. However, for a probationary teacher who has not yet earned  
24 a Professional Standards II license, a performance rating below proficient  
25 may or may not be deemed adequate at that state of development by a  
26 superintendent or designee.

27 ...

28 (h) Procedure for Dismissal or Demotion of Career Employee.

29 (1) a. A career employee may not be dismissed, demoted, or reduced to  
30 part-time employment except upon the superintendent's  
31 recommendation.

32 b. G.S. 115C-325(f2) shall apply to the demotion of a career school  
33 administrator.

34 (2) Before recommending to a board the dismissal or demotion of the career  
35 employee, the superintendent shall give written notice to the career  
36 employee by certified mail or personal delivery of his intention to make such  
37 recommendation and shall set forth as part of his recommendation the



1 grounds upon which he believes such dismissal or demotion is justified. The  
2 superintendent also shall meet with the career employee and give him  
3 written notice of the charges against him, an explanation of the basis for the  
4 charges, and an opportunity to respond if the career employee has not done  
5 so under G.S. 115C-325(f)(1). The notice shall include a statement to the  
6 effect that if the career employee within 14 days after the date of receipt of  
7 the notice requests a review, he ~~or she shall be entitled~~ may request to have  
8 the grounds for the proposed recommendations of the superintendent  
9 reviewed by ~~a case manager, an impartial hearing officer appointed by the~~  
10 Department of Public Instruction as provided for in G.S. 115C-325(h1). A  
11 copy of G.S. 115C-325 ~~and a current list of case managers~~ shall also be sent  
12 to the career employee. If the career employee does not request a hearing  
13 ~~with a case manager before a hearing officer~~ within the 14 days provided,  
14 the superintendent may submit his recommendation to the board.

15 (3) Within the 14-day period after receipt of the notice, the career employee  
16 may file with the superintendent a written request for either (i) a hearing on  
17 the grounds for the superintendent's proposed recommendation by a ~~case~~  
18 ~~manager~~ hearing officer or (ii) a hearing within 10 days before the board on  
19 the superintendent's recommendation. If the career employee requests an  
20 immediate hearing before the board, he forfeits his right to a hearing by a  
21 ~~case manager~~ hearing officer. If no request is made within that period, the  
22 superintendent may file his recommendation with the board. The board, if it  
23 sees fit, may by resolution (i) reject the superintendent's recommendation or  
24 (ii) accept or modify the superintendent's recommendation and dismiss,  
25 demote, reinstate, or suspend the employee without pay. If a request for  
26 review is made, the superintendent shall not file his recommendation for  
27 dismissal with the board until a report of the ~~case manager~~ hearing officer is  
28 filed with the superintendent. Failure of the hearing officer to submit the  
29 report as required by G.S. 115C-325(i1)(2) shall entitle the career employee  
30 to a hearing before the board under the same procedures as provided in  
31 G.S.115C-325(j).

32 (4) Repealed by Session Laws 1997, c. 221, s. 13(a).

33 (5) ~~If the career employee elects to request a hearing by a case manager, the~~  
34 ~~career employee and superintendent shall each have the right to eliminate up~~  
35 ~~to one third of the names on the approved list of case managers. The career~~  
36 ~~employee shall specify those case managers who are not acceptable in the~~  
37 ~~career employee's request for a review of the superintendent's proposed~~  
38 ~~recommendation under G.S. 115C 325(h)(3). The superintendent and career~~  
39 ~~employee may jointly select a person to serve as case manager. The person~~  
40 ~~need not be on the master list of case managers maintained by the~~  
41 ~~Superintendent of Public Instruction.~~

42 (6) If a career employee requests a review by a ~~case manager,~~ hearing officer,  
43 the superintendent shall notify the Superintendent of Public Instruction  
44 within ~~two days'~~ five days of his or her receipt of the request. ~~The notice~~  
45 ~~shall contain a list of the case managers the career employee and the~~  
46 ~~superintendent have eliminated from the master list or the name of a person,~~  
47 ~~if any, jointly selected. Failure to exercise the right to eliminate names from~~  
48 ~~the master list shall constitute a waiver of that right.~~

49 (7) ~~The~~ Within five work days of being notified of the request for a hearing  
50 before a hearing officer, the Superintendent of Public Instruction shall  
51 select ~~submit~~ to both parties a list of hearing officers trained and approved by

1 ~~the Department of Public Instruction, ease manager within three days of~~  
2 ~~receiving notice from the superintendent. Within five work days of receiving~~  
3 ~~the list, the parties may jointly select a hearing officer from that list, or, if the~~  
4 ~~parties cannot agree to a hearing officer, each party may strike up to~~  
5 ~~one-third of the names on the list and submit their strikeout list to the~~  
6 ~~Superintendent of Public Instruction. The Superintendent of Public~~  
7 ~~Instruction shall then appoint a hearing officer from those individuals~~  
8 ~~remaining on the list. designate the person jointly selected by the parties to~~  
9 ~~serve as case manager provided the person agrees to serve as case manager~~  
10 ~~and can meet the requirements for time frames for the hearing and report as~~  
11 ~~provided in G.S. 115C-325(i1)(1). If a case manager was not jointly selected~~  
12 ~~or if the case manager is not available, the Superintendent of Public~~  
13 ~~Instruction shall select a case manager from the master list. Further, the~~  
14 ~~parties may jointly agree on another hearing officer not on the Department of~~  
15 ~~Public Instruction's list, provided that individual is available to proceed in a~~  
16 ~~timely manner and is willing to accept the terms of appointment required by~~  
17 ~~the State Board of Education. No person eliminated by the career employee~~  
18 ~~or superintendent shall be designated ease manager, as the hearing officer for~~  
19 ~~that case.~~

20 (8) ~~The superintendent and career employee shall provide each other serve a~~  
21 ~~copy to the other party of all documents with copies of all documents~~  
22 ~~submitted to the Superintendent of Public Instruction and/or to the~~  
23 ~~designated ease manager, hearing officer and include a signed certificate of~~  
24 ~~service similar to that required in court pleadings.~~

25 (h1) ~~Case Managers; Hearing Officers; Qualifications; Training; Compensation.~~

26 (1) ~~Each year the State Board of Education shall select and maintain a master~~  
27 ~~list of no more than 42-15 qualified ease managers, hearing officers. The~~  
28 ~~State Board shall remove a hearing officer from the list who has failed to~~  
29 ~~conduct a hearing or prepare a report within the time specified in~~  
30 ~~G.S. 115C-325(i1) or who has failed to submit a supplemental report in~~  
31 ~~accordance with G.S. 115C-325(i1)(4) or (j1)(2). A hearing officer shall also~~  
32 ~~be removed from the list for failure to meet the terms and conditions of~~  
33 ~~engagement established by the State Board. Additionally, if a hearing officer~~  
34 ~~is not appointed to a case within a two-year period due to repeated strikes~~  
35 ~~from the list by either party as provided in G.S. 115C-325(h)(6), the State~~  
36 ~~Board may remove the hearing officer from the master list.~~

37 (2) ~~Persons selected by the State Board as ease managers, hearing officers shall~~  
38 ~~be: (i) certified as a North Carolina Superior Court mediator; (ii) a~~  
39 ~~member of the American Arbitration Association's roster of arbitrators and~~  
40 ~~mediators; or (iii) have comparable certification in alternative dispute~~  
41 ~~resolution. Case managers, members in good standing of the North Carolina~~  
42 ~~State Bar who have demonstrated experience and expertise in the areas of~~  
43 ~~education law, due process, administrative law, or employment law within~~  
44 ~~the last five years. The State Board shall give special consideration in its~~  
45 ~~selection to persons jointly endorsed by the largest of each statewide~~  
46 ~~organization representing teachers, school administrators, and local boards~~  
47 ~~of education. Following State Board selection, hearing officers must~~  
48 ~~complete a special training course approved by the State Board of~~  
49 ~~Education. Education that includes training on the teacher evaluation~~  
50 ~~instrument and performance standards before they are qualified to hear~~  
51 ~~teacher dismissal or demotion cases.~~

- 1           (3)    The State Board of Education shall determine the compensation for a ~~ease~~  
2           ~~manager~~hearing officer. The State Board shall pay the hearing officer's ease  
3           ~~manager's~~ compensation and ~~reimbursement for~~authorized expenses.
- 4           (i)    Repealed by Session Laws 1997, c. 221, s. 13(a).
- 5           (i1)   Report of ~~Case Manager~~Hearing Officer; Superintendent's Recommendation.
- 6           (1)    The ~~ease manager~~hearing officer shall complete the hearing held in  
7           accordance with G.S. 115C-325(j) and prepare the report within ~~10-90~~ 90 days  
8           from the time of the designation. This time period may be extended only for  
9           extraordinary cause and upon written agreement by both parties. The ease  
10          ~~manager may extend the period of time by up to five additional days if the~~  
11          ~~ease manager informs the superintendent and the career employee that~~  
12          ~~justice requires that a greater time be spent in connection with the~~  
13          ~~investigation and the preparation of the report. Furthermore, the~~  
14          ~~superintendent and the career employee may agree to an extension of more~~  
15          ~~than five days.~~The State Board of Education shall determine an appropriate  
16          reduction in compensation to the hearing officer for failure to submit a  
17          timely report to the superintendent within the maximum 90-day period set  
18          forth in this subdivision, except upon a showing of good cause by the  
19          hearing officer.
- 20          (2)    The ~~ease manager~~hearing officer shall make all necessary findings of fact,  
21          based upon the preponderance of the evidence, on all issues related to each  
22          and every ground for dismissal and on all relevant matters related to the  
23          question of whether the superintendent's recommendation is justified. The  
24          hearing officer shall not make a recommendation as to conclusions of law or  
25          the disposition of the case. The ease manager also shall make a  
26          ~~recommendation as to whether the findings of fact substantiate the~~  
27          ~~superintendent's grounds for dismissal.~~The ease managerhearing officer  
28          shall deliver copies of the report to the superintendent and the career  
29          employee.
- 30          (3)    Within ~~two~~five work days after receiving the ~~ease manager's~~hearing  
31          ~~officer's~~ report, the superintendent shall decide whether to submit a written  
32          recommendation to the local board for dismissal, demotion, or disciplinary  
33          suspension without pay to the board or to drop the charges against the career  
34          employee. The superintendent shall notify the career employee, in writing,  
35          of the decision.
- 36          (4)    If the superintendent contends that the ~~ease manager's~~hearing officer's  
37          report fails to address a critical factual issue, the superintendent shall within  
38          ~~three days~~five work days' receipt of the ~~ease manager's~~hearing officer's  
39          report, request in writing with a copy to the career employee that the ~~ease~~  
40          ~~manager~~hearing officer prepare a supplement to the report. The  
41          superintendent shall specify what critical factual issue the superintendent  
42          contends the ~~ease manager~~hearing officer failed to address. If the ~~ease~~  
43          ~~manager~~hearing officer determines that the report failed to address a critical  
44          factual issue, the ~~ease manager~~hearing officer shall prepare a  
45          supplement to the report to address the issue and deliver the supplement to  
46          both parties before the board hearing. In no event shall the hearing officer  
47          take more than 30 days to provide a supplemental report. If the hearing  
48          officer fails to submit a timely supplemental report, the superintendent shall  
49          report the hearing officer to the State Board. The State Board shall determine  
50          an appropriate reduction in compensation to the hearing officer for failure to  
51          submit a timely supplemental report to both parties, except upon a showing

- 1                    of good cause by the hearing officer. The failure of the ~~ease manager~~ hearing  
2                    officer to prepare a supplemental report or to address a critical factual issue  
3                    shall not constitute a basis for appeal.
- 4            (j)     Hearing by a ~~Case Manager~~ Hearing Officer. – The following provisions shall apply  
5            to a hearing conducted by the ~~ease manager~~ hearing officer.
- 6            (1)     The hearing shall be private.
- 7            (2)     The hearing shall be conducted in accordance with reasonable rules and  
8            regulations adopted by the State Board of Education to govern such ~~ease~~  
9            ~~manager~~ hearings.
- 10           (3)     At the hearing the career employee and the superintendent or the  
11           superintendent's designee shall have the right to be present and to be heard,  
12           to be represented by counsel and to present through witnesses any competent  
13           testimony relevant to the issue of whether grounds for dismissal or demotion  
14           exist or whether the procedures set forth in G.S. 115C-325 have been  
15           followed.
- 16           (4)     Rules of evidence shall not apply to a hearing conducted by a ~~ease manager~~  
17           ~~and the ease manager~~ hearing officer. The hearing officer may give  
18           probative effect to evidence that is of a kind commonly relied on by  
19           reasonably prudent persons in the conduct of serious affairs.
- 20           (5)     At least five days before the hearing, the superintendent shall provide to the  
21           career employee a list of witnesses the superintendent intends to present, a  
22           brief statement of the nature of the testimony of each witness and a copy of  
23           any documentary evidence the superintendent intends to present. At least  
24           three days before the hearing, the career employee shall provide to the  
25           superintendent a list of witnesses the career employee intends to present, a  
26           brief statement of the nature of the testimony of each witness and a copy of  
27           any documentary evidence the career employee intends to present.  
28           Additional witnesses or documentary evidence may not be presented except  
29           upon a finding by the ~~ease manager~~ hearing officer that the new evidence is  
30           critical to the matter at issue and the party making the request could not,  
31           with reasonable diligence, have discovered and produced the evidence  
32           according to the schedule provided in this subdivision.
- 33           (5a)   The hearing shall be completed within three work days after  
34           commencement, unless extended by the hearing officer on a showing of  
35           extraordinary cause. Neither party shall have more than eight hours to  
36           present its case in chief, which does not include cross examination of  
37           witnesses, rebuttal evidence, or arguments of counsel.
- 38           (6)     The ~~ease manager~~ hearing officer may ~~subpoena~~ issue subpoenas, at his or  
39           her discretion or upon written application by either party, and swear  
40           witnesses and may require them to give testimony and to produce records  
41           and documents relevant to the grounds for dismissal.
- 42           (7)     The ~~ease manager~~ hearing officer shall decide all procedural issues,  
43           including limiting cumulative evidence, necessary for a fair and efficient  
44           hearing.
- 45           (8)     The superintendent shall provide for making a transcript of the hearing. If  
46           the career employee contemplates a hearing before the board or to appeal the  
47           board's decision to a court of law, the career employee may request and shall  
48           receive at no charge a transcript of the proceedings before the ~~ease manager~~  
49           hearing officer.
- 50           (j1)   Board Determination.

- 1 (1) Within ~~two~~five work days after receiving the superintendent's notice of  
2 intent to recommend the career employee's dismissal to the board, the career  
3 employee shall decide whether to request a hearing before the board and  
4 shall notify the superintendent, in writing, of the decision. If the career  
5 employee can show that the request for a hearing was postmarked within the  
6 time provided, the career employee shall not forfeit the right to a board  
7 hearing. Within ~~two~~five work days after receiving the career employee's  
8 request for a board hearing, the superintendent shall request that a transcript  
9 of the ~~case manager~~ hearing be made. Within ~~two~~five work days of  
10 receiving a copy of the transcript, the superintendent shall submit to the  
11 board the written recommendation and shall provide a copy of the  
12 recommendation to the career employee. The superintendent's  
13 recommendation shall state the grounds for the recommendation and shall be  
14 accompanied by a copy of the ~~case manager's~~ hearing officer's report and a  
15 copy of the transcript of the ~~case manager~~ hearing.
- 16 (2) If the career employee contends that the ~~case manager's~~ hearing officer's  
17 report fails to address a critical factual issue the career employee shall, at the  
18 same time he notifies the superintendent of a request for a board hearing  
19 pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the  
20 superintendent that the ~~case manager~~ hearing officer prepare a supplement to  
21 the ~~case manager's~~ hearing officer's report. The career employee shall  
22 specify the critical factual issue he contends the ~~case manager~~ hearing  
23 officer failed to address. If the ~~case manager~~ hearing officer determines that  
24 the report failed to address a critical factual issue, the ~~case manager~~ may  
25 hearing officer shall prepare a supplement to the report to address the issue  
26 and shall deliver the supplement to both parties before the board hearing. In  
27 no event shall the hearing officer take more than 30 days to provide a  
28 supplemental report. If the hearing officer fails to submit a timely  
29 supplemental report, the superintendent shall report the hearing officer to the  
30 State Board. The State Board shall determine an appropriate reduction in  
31 compensation to the hearing officer for failure to submit a timely  
32 supplemental report to both parties, except upon a showing of good cause by  
33 the hearing officer. The failure of the ~~case manager~~ hearing officer to  
34 prepare a supplemental report or to address a critical factual issue shall not  
35 constitute a basis for appeal.
- 36 (3) Within ~~two~~five work days after receiving the superintendent's  
37 recommendation and before taking any formal action, the board shall set a  
38 time and place for the hearing and shall notify the career employee by  
39 certified mail or personal delivery of the date, time, and place of the hearing.  
40 The time specified shall not be less than ~~seven~~10 ~~nor~~ nor ~~more than 30~~ 40  
41 days after the board has notified the career employee, unless both parties  
42 agree to an extension. If the career employee did not request a hearing, the  
43 board may, by resolution, reject the superintendent's decision, or accept or  
44 modify the decision and dismiss, demote, reinstate, or suspend the career  
45 employee without pay.
- 46 (4) If the career employee requests a board hearing, it shall be conducted in  
47 accordance with G.S. 115C-325(j2).
- 48 (5) The board shall make a determination and may (i) reject the superintendent's  
49 recommendation or (ii) accept or modify the recommendation and dismiss,  
50 demote, reinstate, or suspend the employee without pay.

1 (6) Within two days following the hearing, the board shall send a written copy  
2 of its findings and determination to the career employee and the  
3 superintendent.

4 ...."

5 SECTION 2. G.S. 115C-333 reads as rewritten:

6 "§ 115C-333. Evaluation of ~~certified—licensed~~ employees including certain  
7 superintendents; ~~action—mandatory improvement~~ plans; State board  
8 notification upon dismissal of employees.

9 (a) Annual Evaluations; Low-Performing Schools. – Local school administrative units  
10 shall evaluate at least once each year all ~~certified—licensed~~ employees assigned to a school that  
11 has been identified as ~~low performing, but has not received an assistance team.~~ low-performing.  
12 The evaluation shall occur early enough during the school year to provide adequate time for the  
13 development and implementation of ~~an action—a mandatory improvement~~ plan if one is  
14 recommended under subsection (b) of this section. If the employee is a teacher as defined under  
15 G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or  
16 an ~~assessment—assistance~~ team assigned under ~~G.S. 115C-334~~ G.S. 115C-105.38 shall conduct  
17 the evaluation. If the employee is a school administrator as defined under  
18 G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct  
19 the evaluation.

20 Notwithstanding this subsection or any other law, all teachers in low-performing schools  
21 who have not attained career status shall be observed at least three times annually by the  
22 principal or the principal's designee and at least once annually by a teacher and shall be  
23 evaluated at least once annually by a principal. ~~All other employees defined as teachers under~~  
24 ~~G.S. 115C-325(a)(6) who are assigned to schools that are not designated as low performing~~  
25 ~~shall be evaluated annually unless a local board adopts rules that allow specified categories of~~  
26 ~~teachers with career status to be evaluated more or less frequently. Local boards also may adopt~~  
27 ~~rules requiring the annual evaluation of noncertified employees.~~ This section shall not be  
28 construed to limit the duties and authority of an assistance team assigned to a low-performing  
29 school under G.S. 115C-105.38.

30 A local board shall use the performance standards and criteria adopted by the State Board  
31 unless the board develops an alternative evaluation that is properly validated and that includes  
32 standards and criteria similar to those adopted by the State Board. All other provisions of this  
33 section shall apply if a local board uses an evaluation other than one adopted by the State  
34 Board.

35 (b) Mandatory Improvement Action Plans. –

36 (1) A mandatory improvement plan is an instrument designed to improve a  
37 teacher's performance or the performance of any certified/licensed employee  
38 in a low-performing school by providing the individual with notice of  
39 specific performance areas that have substantial deficiencies and a set of  
40 strategies, including the specific support to be provided to the individual, so  
41 that the individual, within a reasonable period of time, should satisfactorily  
42 resolve such deficiencies. The mandatory improvement plan will be utilized  
43 only if the superintendent or superintendent's designee determines that an  
44 individual, monitored, or directed growth plan will not satisfactorily address  
45 the deficiencies.

46 ~~(1)(2)~~ If a ~~licensed~~certified employee in a low-performing school receives an  
47 ~~unsatisfactory or below standard rating on any function of the evaluation that~~  
48 ~~is related to the employee's instructional duties, a rating on any standard on~~  
49 ~~an evaluation that is below proficient or otherwise represents unsatisfactory~~  
50 ~~or below standard performance in an area that the teacher was expected to~~  
51 ~~demonstrate,~~ the individual or team that conducted the evaluation shall

1 recommend to the superintendent that: (i) the employee receive ~~an action~~ a  
2 mandatory improvement plan designed to improve the employee's  
3 performance; or (ii) the superintendent recommend to the local board that  
4 the employee be dismissed or demoted. If the individual or team that  
5 conducted the evaluation elects not to make either of the above  
6 recommendations, the said individual or team shall notify the superintendent  
7 of this decision. The superintendent shall determine whether to develop ~~an~~  
8 ~~action~~ a mandatory improvement plan or to recommend a dismissal  
9 proceeding. ~~Action~~ Mandatory improvement plans shall be developed by the  
10 person who evaluated the employee or the employee's supervisor unless the  
11 evaluation was conducted by an assistance ~~team~~ or an ~~assessment~~ team. If  
12 the evaluation was conducted by an assistance ~~team~~ or an ~~assessment~~ team,  
13 that team shall develop the ~~action~~ mandatory improvement plan in  
14 collaboration with the employee's supervisor. ~~Action~~ Mandatory  
15 improvement plans shall be designed to be completed within 90 instructional  
16 days or before the beginning of the next school year. The State Board shall  
17 develop guidelines that include strategies to assist local boards in evaluating  
18 ~~certified~~ licensed employees and developing effective ~~action~~ mandatory  
19 improvement plans within the time allotted under this section. Local boards  
20 may adopt policies for the development and implementation of ~~action~~  
21 mandatory improvement plans and policies for the implementation of  
22 monitored and directed growth plans. ~~or professional development plans for~~  
23 ~~employees who do not require action plans under this section.~~

24 (2) ~~Local boards shall adopt policies to require action plans for all certified~~  
25 ~~employees who receive a below standard or unsatisfactory rating on an~~  
26 ~~evaluation in the event the superintendent does not recommend dismissal,~~  
27 ~~demotion, or nonrenewal.~~

28 (c) ~~Reevaluation. Reassessment of Employee in a Low-Performing School.~~ – After the  
29 expiration of the time period for the mandatory improvement plan ~~Upon completion of an action~~  
30 ~~plan~~ under subdivision (1) ~~of subsection (b)(2)~~ of this section, the superintendent, the  
31 superintendent's designee, or the ~~assessment~~ assistance team shall ~~evaluate~~ assess the  
32 performance of the employee of the low-performing school a second time. If the  
33 superintendent, superintendent's designee, or assistance team determines that the employee has  
34 failed to become proficient in any of the performance standards articulated in the mandatory  
35 improvement plan or demonstrate sufficient improvement toward such standards, ~~If on the~~  
36 ~~second evaluation the employee receives one unsatisfactory or more than one below standard~~  
37 ~~rating on any function that is related to the employee's instructional duties,~~ the superintendent  
38 shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results  
39 of the second ~~evaluation~~ assessment shall constitute substantial evidence of the employee's  
40 inadequate performance.

41 (d) State Board Notification. – If a local board dismisses an employee of a  
42 low-performing school for any reason except a reduction in force under ~~G.S. 115C-325(e)(1)~~  
43 G.S. 115C-325(e)(1)L., it shall notify the State Board of the action, and the State Board annually  
44 shall provide to all local boards the names of those individuals. If a local board hires one of  
45 these individuals, within 60 days the superintendent or the superintendent's designee shall  
46 observe the employee, develop ~~an action~~ a mandatory improvement plan to assist the employee,  
47 and submit the plan to the State Board. The State Board shall review the ~~action~~ mandatory  
48 improvement plan and may provide comments and suggestions to the superintendent. If on the  
49 next evaluation the employee receives a rating on any standard that was identified as an area of  
50 concern on the mandatory improvement plan that is again below proficient or otherwise  
51 represents unsatisfactory or below standard performance, ~~an unsatisfactory or below standard~~

1 ~~rating on any function that is related to the employee's instructional duties~~, the local board shall  
2 notify the State Board and the State Board shall initiate a proceeding to revoke the employee's  
3 ~~certificate license~~ under G.S. 115C-296(d). If on ~~the~~ this next evaluation the employee receives  
4 at least a satisfactory-proficient rating on all of the performance standards functions that were  
5 identified as areas of concern on the mandatory improvement plan, related to the employee's  
6 ~~instructional duties~~, the local board shall notify the State Board that the employee is in good  
7 standing and the State Board shall not continue to provide the individual's name to local boards  
8 under this subsection unless the employee is subsequently dismissed under G.S. 115C-325  
9 except for a reduction in force.

10 (e) Civil Immunity. – There shall be no liability for negligence on the part of the State  
11 Board of Education or a local board of education, or their employees, arising from any action  
12 taken or omission by any of them in carrying out the provisions of this section. The immunity  
13 established by this subsection shall not extend to gross negligence, wanton conduct, or  
14 intentional wrongdoing that would otherwise be actionable. The immunity established by this  
15 subsection shall be deemed to have been waived to the extent of indemnification by insurance,  
16 indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
17 extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of  
18 Chapter 143 of the General Statutes.

19 (f) Local Board Evaluation of Certain Superintendents. – Each year the local board of  
20 education shall evaluate the superintendent employed by the local school administrative unit  
21 and report to the State Board the results of that evaluation if during that year the State Board  
22 designated as low-performing:

- 23 (1) One or more schools in a local school administrative unit that has no more  
24 than 10 schools.
- 25 (2) Two or more schools in a local school administrative unit that has no more  
26 than 20 schools.
- 27 (3) Three or more schools in a local school administrative unit that has more  
28 than 20 schools."

29 **SECTION 3.** Chapter 115C of the General Statutes is amended by adding a new  
30 section to read:

31 **"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;**  
32 **mandatory improvement plans; State Board notification upon dismissal of**  
33 **teachers.**

34 (a) Annual Evaluations. – All teachers who are assigned to schools that are not  
35 designated as low-performing and who have not attained career status shall be observed at least  
36 three times annually by the principal or the principal's designee and at least once annually by a  
37 teacher and shall be evaluated at least once annually by a principal. All teachers with career  
38 status who are assigned to schools that are not designated as low-performing shall be evaluated  
39 annually unless a local board adopts rules that allow teachers with career status to be evaluated  
40 more or less frequently. Local boards also may adopt rules requiring the annual evaluation of  
41 nonlicensed employees. A local board shall use the performance standards and criteria adopted  
42 by the State Board unless the board develops an alternative evaluation that is properly validated  
43 and that includes standards and criteria similar to those adopted by the State Board. All other  
44 provisions of this section shall apply if a local board uses an evaluation other than one adopted  
45 by the State Board.

46 (b) Mandatory Improvement Plans for Teachers. – If, in an observation report or  
47 year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents  
48 unsatisfactory or below standard performance on any standard that the teacher was expected to  
49 demonstrate, the principal may place the teacher on a mandatory improvement plan as defined  
50 in G.S. 115C-333(b)(1). If at any time a teacher engages in inappropriate conduct or performs  
51 inadequately to such a degree that such conduct or performance causes substantial harm to the

1 educational environment, and immediate dismissal or demotion is not appropriate, then the  
2 principal may immediately institute a mandatory improvement plan regardless of any ratings on  
3 previous evaluations. The principal shall document the exigent reason for immediately  
4 instituting such a plan. The mandatory improvement plan shall be developed by the principal in  
5 consultation with the teacher. The teacher shall have five instructional days from receipt of the  
6 proposed mandatory improvement plan to request a modification of such plan before it is  
7 implemented, and the principal shall consider such suggested modifications before finalizing  
8 the plan. The teacher shall have at least 60 instructional days to complete the mandatory  
9 improvement plan. The State Board shall develop guidelines that include strategies to assist  
10 local boards in evaluating teachers and developing effective mandatory improvement plans.  
11 Local boards may adopt policies for the implementation of mandatory improvement plans  
12 under this section.

13 (c) Observation by a Qualified Observer. –

- 14 (1) The term "qualified observer" as used in this section is any administrator or  
15 teacher who is licensed by the North Carolina Department of Public  
16 Instruction and working in North Carolina; any employee of the North  
17 Carolina Department of Public Instruction who is trained in evaluating  
18 licensed employees; or any instructor or professor who teaches in an  
19 accredited North Carolina school of education and holds an educator's  
20 license.
- 21 (2) The local board of education shall create a list of qualified observers who are  
22 employed by that board and available to do observations of employees on  
23 mandatory improvement plans. This list shall be limited to names of  
24 administrators and teachers selected by the school improvement teams in the  
25 school system. The school improvement teams shall strive to select  
26 administrators and teachers with excellent reputations for competence and  
27 fairness.
- 28 (3) Any teacher, other than a teacher assigned to a school designated as  
29 low-performing, who has been placed on a mandatory improvement plan  
30 shall have a right to be observed by a qualified observer in the area or areas  
31 of concern identified in the mandatory improvement plan. The affected  
32 teacher and the principal shall jointly choose the qualified observer within  
33 20 instructional days after the commencement of the mandatory  
34 improvement plan. If the teacher and the principal cannot agree on a  
35 qualified observer within this time period, they each shall designate a person  
36 from the list of qualified observers created pursuant to subdivision (2) of this  
37 subsection and these two designated persons shall choose a qualified  
38 observer within five instructional days of their designation. The qualified  
39 observer shall draft a written report assessing the teacher in the areas of  
40 concern identified in the mandatory improvement plan. The report shall be  
41 submitted to the principal before the end of the mandatory improvement plan  
42 period. If a teacher or administrator from the same school district is selected  
43 to serve as the qualified observer, the administration of the school district  
44 must provide such qualified observer with the time necessary to conduct the  
45 observation and prepare a report. If someone who is not employed by the  
46 same school district is selected to serve as the qualified observer, the teacher  
47 who is the subject of the mandatory improvement plan will be responsible  
48 for any expenses related to the observations and/or reports prepared by the  
49 qualified observer. The qualified observer will not unduly disrupt the  
50 classroom when conducting an observation.

1           (4) No local board of education or employee of a local board of education shall  
2 discharge, threaten, or otherwise retaliate against another employee of the  
3 board regarding that employee's compensation, terms, conditions, location,  
4 or privileges of employment because of the employee's service or  
5 completion of a report as an objective observer pursuant to this subsection,  
6 unless the employee's report contained material information that the  
7 employee knew was false.

8           (d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan  
9 under subdivision (b)(1) of this section, the principal shall assess the performance of the  
10 teacher a second time. The principal shall also review and consider any report provided by the  
11 qualified observer under subdivision (b)(2) of this section if one has been submitted before the  
12 end of the mandatory improvement plan period. If, after the second assessment of the teacher  
13 and consideration of any report from the qualified observer, the superintendent or  
14 superintendent's designee determines that the teacher has failed to become proficient in any of  
15 the performance standards identified as deficient in the mandatory improvement plan or  
16 demonstrate sufficient improvement towards such standards, the superintendent may  
17 recommend that the teacher be dismissed or demoted under G.S. 115C-325. The results of the  
18 second assessment produced pursuant to the terms of this subsection shall constitute substantial  
19 evidence of the teacher's inadequate performance.

20           (e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a  
21 mandatory improvement plan as described in this section shall not prohibit a superintendent  
22 from initiating a dismissal proceeding against a career employee under the provisions of  
23 G.S. 115C-325. However, the superintendent shall not be entitled to the "substantial evidence"  
24 provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

25           (f) State Board Notification. – If a local board dismisses a teacher for any reason except  
26 a reduction in force under G.S. 115C-325(e)(1)L., it shall notify the State Board of the action,  
27 and the State Board annually shall provide to all local boards the names of those teachers. If a  
28 local board hires one of these teachers, within 60 days the superintendent or the  
29 superintendent's designee shall observe the teacher, develop a mandatory improvement plan to  
30 assist the teacher, and submit the plan to the State Board. The State Board shall review the  
31 mandatory improvement plan and may provide comments and suggestions to the  
32 superintendent. If on the next evaluation the teacher receives a rating on any standard that was  
33 an area of concern on the mandatory improvement plan that is again below proficient or a  
34 rating that otherwise represents unsatisfactory or below standard performance, the local board  
35 shall notify the State Board, and the State Board shall initiate a proceeding to revoke the  
36 teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least  
37 a proficient rating on all of the overall performance standards that were areas of concern on the  
38 mandatory improvement plan, the local board shall notify the State Board that the teacher is in  
39 good standing and the State Board shall not continue to provide the teacher's name to local  
40 boards under this subsection unless the teacher is subsequently dismissed under G.S. 115C-325  
41 except for a reduction in force. If, however, on this next evaluation the teacher receives a  
42 "developing" rating on any standards that were areas of concern on the mandatory improvement  
43 plan, the teacher shall have one more year to bring the rating to proficient. If, by the end of this  
44 second year, the teacher is not proficient in all standards that were areas of concern on the  
45 mandatory improvement plan, the local board shall notify the State Board, and the State Board  
46 shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

47           (g) Civil Immunity. – There shall be no liability for negligence on the part of the State  
48 Board of Education or a local board of education, or their employees, arising from any action  
49 taken or omission by any of them in carrying out the provisions of this section. The immunity  
50 established by this subsection shall not extend to gross negligence, wanton conduct, or  
51 intentional wrongdoing that would otherwise be actionable. The immunity established by this

1 subsection shall be deemed to have been waived to the extent of indemnification by insurance,  
2 indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
3 extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of  
4 Chapter 143 of the General Statutes."

5 SECTION 4. G.S. 115C-288 reads as rewritten:

6 "§ 115C-288. Powers and duties of principal.

7 ...

8 (i) To Evaluate ~~Certified~~ Licensed Employees and Develop ~~Action~~ Mandatory  
9 Improvement Plans. – Each school year, the principal assigned to a low-performing school that  
10 has not received an assistance team shall provide for the evaluation of all ~~certified~~ licensed  
11 employees assigned to the school. The principal also shall develop ~~action~~ mandatory  
12 improvement plans as provided under G.S. 115C-333(b) and shall monitor an employee's  
13 progress under ~~an action~~ a mandatory improvement plan.

14 ...."

15 SECTION 5. G.S. 115C-334 reads as rewritten:

16 "§ 115C-334. Assessment teams.

17 The State Board shall develop guidelines for local boards to use to create assessment teams.  
18 A local board shall assign an assessment team to every low-performing school in the local  
19 school administrative unit that has not received an assistance team. Local boards shall ensure  
20 that assessment team members are trained in the proper administration of the employee  
21 evaluation used by the local school administrative unit. If service on an assessment team is an  
22 additional duty for an employee of a local board, the board may pay the employee for that  
23 additional work.

24 Assessment teams shall have the following duties:

- 25 (1) Conduct evaluations of ~~certified~~ licensed employees in low-performing  
26 schools;
- 27 (2) Provide technical assistance and training to principals, assistant principals,  
28 superintendents, and superintendents' designees who conduct evaluations of  
29 ~~certified~~ licensed employees;
- 30 (3) Develop ~~action~~ mandatory improvement plans for ~~certified~~ licensed  
31 employees; and
- 32 (4) Assist principals, assistant principals, superintendents, and superintendents'  
33 designees in the development and implementation of ~~action~~ mandatory  
34 improvement plans."

35 SECTION 6. G.S. 115C-335 reads as rewritten:

36 "§ 115C-335. Development of performance standards and criteria for ~~certified~~ licensed  
37 employees; training and remediation programs.

38 ...

39 (b) Training. – The State Board, in collaboration with the Board of Governors of The  
40 University of North Carolina, shall develop programs designed to train principals and  
41 superintendents in the proper administration of the employee evaluations developed by the  
42 State Board. The Board of Governors shall use the professional development programs for  
43 public school employees that are under its authority to make this training available to all  
44 principals and superintendents at locations that are geographically convenient to local school  
45 administrative units. The programs shall include methods to determine whether an employee's  
46 performance has improved student learning, the development and implementation of  
47 appropriate ~~action~~ professional growth and mandatory improvement plans, the process for  
48 contract nonrenewal, and the dismissal process under G.S. 115C-325. The Board of Governors  
49 shall ensure that the subject matter of the training programs is incorporated into the masters in  
50 school administration programs offered by the constituent institutions. The State Board, in  
51 collaboration with the Board of Governors, also shall develop in-service programs for ~~certified~~

1 licensed public school employees that may be included in an action a mandatory improvement  
2 plan created under G.S. 115C-333(b). The Board of Governors shall use the professional  
3 development programs for public school employees that are under its authority to make this  
4 training available at locations that are geographically convenient to local school administrative  
5 units."

6           **SECTION 7.** This act is effective when it becomes law.